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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,879	09/16/2003	Sheldon Yourist	29953-184842	1152
26694	7590	05/26/2005	EXAMINER	
VENABLE LLP P.O. BOX 34385 WASHINGTON, DC 20045-9998			WEAVER, SUE A	
			ART UNIT	PAPER NUMBER
			3727	

DATE MAILED: 05/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/662,879

Applicant(s)

YOURIST ET AL.

Examiner

Sue A. Weaver

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 15 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) 22-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 and 25-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>3/15/05</u> | 6) <input type="checkbox"/> Other: _____ |

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1. Claims 22-24 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 9/8/04.

2. The drawings were received on 3/15/05. These drawings are accepted.

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 6-8,10-12,14, 16 and 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bailey, in the manner set forth in paragraph 5 of the previous office action, in view of Betras taken alone or further in view of Smith et al '317, of record.

Betras teaches a wide mouth container which may be blow molded of plastic. The container includes a narrow neck portion 40 which flares to the finish for ease of grasping or handling the container. To have provided the wide mouth container of Bailey with such a flared neck portion for ease of handling would have been obvious in view of such teaching by Betras. Since Betras suggests a blow molded container it is considered to include a blow molded finish. In any event, to have blown the finish in the manner taught by Smith et al to improve the finish would have been most obvious to one having ordinary skill in the art.

4. Claims 2, 4, 5 and 29 remain rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1 and 25 above, and further in view of Douglas for the reasons set forth in paragraph 6 of the previous Office action.

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5. Claim 3 remains rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Nakamura et al for the reasons set forth in paragraph 7 of the previous Office action.

6. Claim 9 remains rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Tobias et al '221 for the reasons set forth in paragraph 8 of the previous Office action.

7. Claim 13 remains rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 12 above, and further in view of Cochran for the reasons set forth in paragraph 9 of the previous Office action.

8. Claim 15 remains rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Smith et al '273 for the reasons set forth in paragraph 10 of the previous Office action.

9. Claims 17 and 21 remain rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Ota et al for the reasons set forth in paragraph 11 of the previous Office action.

10. Claims 19 and 20 remain rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Kemper for the reasons set forth in paragraph 12 of the previous Office action.

11. Claims 30, 31, 33-35, 38 and 39 remain rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 25 above, and further in view of Kessler for the reasons set forth in paragraph 13 of the previous Office action.

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12. Claim 32 remains rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 30 above, and further in view of Ditto for the reasons set forth in paragraph 14 of the previous Office action.

13. Claims 18, 36 and 37 remain rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1 and 30 above, and further in view of Hayashi et al for the reasons set forth in paragraph 15 of the previous Office action.

14. Claim 40 remains rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 39 above, and further in view of Minh for the reasons set forth in paragraph 16 of the previous Office action.

15. Applicant's arguments with respect to claims 1 and 25 have been considered but are moot in view of the new ground(s) of rejection.

The claim for a carafe with a flared neck is not considered to distinguish the structure claimed over that of Bailey as modified. It may be noted that there are coffee carafes which do not have flared necks. Furthermore applicants have not claimed any particular post construction which distinguishes over the corners of Bailey. Furthermore Hayashi et al show well-known post constructions in polygonal containers.

Applicant's arguments, see pages 11-13 of the amendment, filed 3/15/05, with respect to the objections to the drawings and disclosure have been fully considered and are persuasive. The objections to the drawings and disclosure have been withdrawn.

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16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sterges and Rickmeier, Jr show carafes while Robinson shows a rectangular container with a wide mouth and flared neck portion.

17. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue A. Weaver whose telephone number is 571 272-4548. The examiner can normally be reached on Tuesday-Friday.

— The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SW

Sue A. Weaver
Sue A. Weaver
Primary Examiner